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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
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9 STEPHEN D. COMSTOCK,

10 *Petitioner,*

11 vs.

12 STEFANIE HUMPRHIES, et al.,

13 *Respondents.*
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3:10-cv-00147-LRH-WGC

ORDER

15 On February 14, 2014, this court denied all claims with prejudice in this petition for writ of
16 habeas corpus pursuant to 28 U.S.C. § 2254 (ECF No. 32). Judgment was entered on that date (ECF
17 No. 33). Petitioner Stephen D. Comstock appealed, and on May 12, 2015, the Ninth Circuit Court of
18 Appeals issued an order reversing and remanding with instructions to this court that the writ of habeas
19 corpus be granted (ECF No. 39). The order further directed that Comstock shall be released from
20 probationary custody unless the State notified this court within thirty (30) days of its intent to retry him
21 and commences retrial within ninety (90) days. *Id.* After a petition for reconsideration was denied, the
22 mandate issued on June 29, 2015, and was ordered spread upon the records of this court on July 8, 2015
23 (ECF Nos. 41, 42, 43).


24 On August 27, 2015, counsel for petitioner filed a notice of state proceedings (ECF No. 44).
25 He indicated that the state district court held a hearing on July 29, 2015, at which petitioner was
26 represented by the local public defender. *Id.* At that hearing, the district attorney informed the court
27 that the State would not seek a retrial, and the state district court dismissed the case with prejudice.

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1 *Id.* Counsel for petitioner attached the written order dismissing the case with prejudice, which was
2 entered on August 13, 2015 (ECF No. 44-1).

3 **IT IS THEREFORE ORDERED** that this court's order and judgment dated February 14, 2014
4 are **REVERSED**. Petitioner's application for a writ of habeas corpus is **GRANTED**. Petitioner's
5 conviction and sentence are set aside, and he is released from custody. The Clerk shall enter judgment
6 accordingly.

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8 Dated this 28th day of October, 2015.

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11 LARRY R. HICKS
12 UNITED STATES DISTRICT JUDGE
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